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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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|---------------------------|---|----------------------------------|
| UNITED STATES OF AMERICA, |) | CASE NO. 3:22-CR-00167 |
| |) | |
| Plaintiff, |) | UNITED STATES' SENTENCING |
| |) | MEMORANDUM |
| v. |) | |
| |) | |
| DALINO ALMEDA, |) | Hearing Date: March 26, 2024 |
| |) | Time: 2:00 p.m. |
| Defendant. |) | Judge: Hon. William Alsup |

I. INTRODUCTION

On July 7, 2021, Dalino Almeda was stopped by the San Francisco Police Department ("SFPD") while driving. In the backseat of the car Almeda was driving, SFPD located a bag which contained a Smith and Wesson model M&P pistol, which was loaded with 15 rounds of ammunition. SFPD later searched Almeda's residence and located small baggie containing nine unfired .40 caliber cartridge casings. Based on his previous felony conviction, Almeda was prohibited from possessing firearms or ammunition. On April 20, 2022, a two-count indictment was filed charging Almeda with possession of the firearm and ammunition. He subsequently pled guilty to Count One of the indictment, felon-in-possession of a firearm and ammunition in violation of 18 U.S.C. § 922(g)(1). On March 26, 2024,

Almeda is scheduled to be sentenced, following his completion of the Leading Emerging Adults to Develop Success (LEADS) program. Based on Almeda's successful completion of the LEADS program and pursuant to the plea agreement, the government recommends a sentence of time served, three years of supervised release and a \$100 special assessment.

II. OFFENSE CONDUCT AND SENTENCING GUIDELINES CALCULATION

A. Almeda Possessed a Loaded Firearm on July 7, 2021

On July 7, 2021, SFPD officers were on patrol in the area of Ney and Mission Streets, when they observed a parked Mercedes and Almeda tampering with the front license plate of the vehicle. SFPD watched Almeda get into the drivers seat and drive away. SFPD initiated a traffic stop and a subsequent parole search of Almeda and the vehicle. In the middle rear seat of the vehicle Almeda was driving, SFPD located a satchel which contained a Smith and Wesson model M&P pistol, which was loaded with 15 rounds of ammunition. DNA testing of the firearm returned strong support for Almeda's DNA.

Law enforcement then conducted a parole search of Almeda's residence and located a small baggie containing nine unfired .40 caliber cartridge casings in a duffel bag, as well as an additional unfired .40 caliber cartridge casing in another bag.

B. The PSR Accurately Calculates the Offense Level

The government agrees with the offense level as set forth in the PSR. PSR ¶¶ 14-23. The PSR calculates the offense level as follows:

| Count 1 : Felon-In-Possession of a Firearm and Ammunition (18 U.S.C. § 922(g)(1)) | | |
|--|-------------------------|--------------|
| | U.S.S.G. Section | Level |
| Base offense level | § 2K2.1(a)(4)(A) | 20 |
| Acceptance of responsibility | § 3E1.1 | -3 |
| Total offense level | | 17 |

The government also agrees with the PSR's calculation of Almeda's Criminal History Category (CHC). With a total criminal history score of three, Almeda has a CHC of II. PSR ¶ 29. With a total offense level of 17 and a CHC of II, the advisory Guidelines range here is 27-33 months. *Id.* ¶ 57.

1 **III. SENTENCING RECOMMENDATION**

2 **A. Legal Standard**

3 The United States Sentencing Guidelines serve as “the starting point and the initial benchmark” of
 4 any sentencing process and are to be kept in mind throughout the process. *See United States v. Carty*, 520
 5 F.3d 984, 991 (9th Cir. 2008); *see also United States v. Kimbrough*, 522 U.S. 85, 108 (2007). The
 6 overarching goal of sentencing, as set forth by Congress, is for the Court to “impose a sentence sufficient,
 7 but not greater than necessary.” *Carty*, 520 F.3d at 991 (citation omitted). In accomplishing that goal,
 8 the Court should consider the factors set forth under 18 U.S.C. § 3553(a), which include:

- 9 (1) the nature and circumstances of the offense and the history and
 10 characteristics of the defendant;
- 11 (2) the need for the sentence imposed to reflect the seriousness of the
 12 offense, to promote respect for the law, and to provide just
 13 punishment for the offense;
- 14 (3) the need for the sentence imposed to afford adequate deterrence to
 15 criminal conduct; and
- 16 (4) the need to avoid unwarranted sentence disparities among
 17 defendants with similar records who have been found guilty of
 18 similar conduct.

16 **B. The Government’s Recommended Sentence**

17 As noted in the PSR, Almeda has participated in the LEADS program since March 2023. He has
 18 been performing well on U.S. Pretrial Services supervision and has obtained and maintained successful
 19 employment and housing. He has also completed his Individual Success Plan as well as various other
 20 requirements of the LEADS program. The government congratulates Almeda on the work he has done to
 21 forge a new life path and encourages him to continue doing the hard work that will be required to maintain
 22 it. Based on Almeda’s successful completion of the LEADS program, the government recommends that
 23 the Court sentence him to time served.

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1 **IV. CONCLUSION**

2 For the foregoing reasons, the United States recommends that the Court sentence Almeda to time
3 served, three years of supervised release, and a \$100 special assessment.

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5 DATED: March 19, 2024

Respectfully submitted,

6 ISMAIL J. RAMSEY
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8 /s/
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